

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC MAIL SECTION

FCC 93M-480

JUL 23 11 40 AM '93 2018

DOCKET NO. 93-93

File No. BPET-931012KE

DISPATCHED BY

File No. BPET-900904KE

In re Applications of

COMMUNITY TELEVISION OF
SOUTHERN CALIFORNIA

VALLEY PUBLIC TELEVISION, INC.

For Construction Permit for a
New TV Station On Channel *39
Bakersfield, California

MEMORANDUM OPINION AND ORDER

Issued: July 19, 1993

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Released: July 20, 1993

1. Under consideration are a Joint Petition for Approval of Settlement Agreement, filed on June 18, 1993, by Community Television of Southern California ("Community") and Valley Public Television, Inc. ("Valley"); comments on the Joint Petition, filed on July 1, 1993, by the Mass Media Bureau ("Bureau"); and a Supplement to Joint Petition for Approval of Settlement Agreement, filed on July 15, 1993, by Community and Valley.

2. Petitioners have entered into a Settlement Agreement and amendments thereto (collectively "Agreement") which have been submitted for approval. The Agreement provides, among other things, for the dismissal of the above-captioned applications of both Community and Valley, the dismissal by Valley of a petition for reconsideration of the grant of another Community application, and the provision of noncommercial television service to Bakersfield by both Community and Valley on their respective existing translator facilities. In addition, the Agreement prohibits Community and Valley from applying for a full service station to operate on Channel *39 in Bakersfield for five years unless an independent third party first files for such facility. The Agreement also contains various ancillary agreements between Community and Valley, effective for a period of five years, defining the areas in which each party may operate translator or low power television facilities and solicit new members, and limiting the retransmission of their respective signals.

3. The Bureau opposed the Joint Petition because the Settlement Agreement, as originally submitted, contained a non-severable condition that the above-captioned applications be dismissed without prejudice. The Bureau stated, however, that it would support approval of the Settlement Agreement if it were modified so as to eliminate this condition. In response to the Bureau's concerns, Community and Valley amended the Settlement Agreement to, inter alia, delete the condition in question. See Supplement to Joint Petition for Approval of Settlement Agreement, filed by the applicants on July 15, 1993.

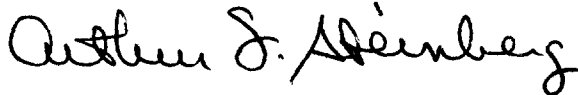
4. The Joint Petition will be granted, the Agreement will be approved, and the applications of both Community and Valley will be dismissed with prejudice. The applicants have demonstrated compliance with Section 73.3525(a) of the Commission's Rules. Specifically, the applicants have shown that their respective applications were not filed for the purpose of reaching or carrying out a settlement agreement, have demonstrated that approval of the Agreement will serve the public interest, and have disclosed the details of their ancillary agreements. In addition, a principal of each applicant has declared under penalty of perjury that no monetary consideration has been promised or paid, directly or indirectly, in exchange for the dismissal of their respective applications. Finally, in view of the dismissal of both applications, this proceeding will be terminated.

Accordingly, IT IS ORDERED that the Joint Petition for Approval of Settlement Agreement, filed by Community and Valley on June 18, 1993, and the Supplement to Joint Petition for Approval of Settlement Agreement, filed by Community and Valley on July 15, 1993, ARE GRANTED; that the Settlement Agreement, as amended, IS APPROVED; and that the above-captioned applications of Community Television of Southern California and Valley Public Television, Inc., ARE DISMISSED with prejudice.

IT IS FURTHER ORDERED that, given the dismissal of the Community and Valley applications, the following pleadings ARE DISMISSED as moot: (a) Motion to Enlarge Issues, filed on May 3, 1993, by Community; (b) Supplement to Motion to Enlarge Issues Filed by Community Television of Southern California, filed on May 4, 1993, by Community; (c) Motion to Enlarge Issues, filed on May 3, 1993, by Valley; (d) Supplement to Motion to Enlarge Issues, filed on May 4, 1993, by Valley; (e) Petition for Leave to Amend, filed on May 13, 1993, by Valley; (f) Statement for the Record and Corrected Certificate of Service, filed on May 14, 1993, by Valley; (g) Motion to Accept Supplement to Motion to Enlarge Issues, filed on May 18, 1993, by Community; (h) Supplement to Motion to Enlarge Issues, filed on May 18, 1993, by Community; and (i) Second Motion to Enlarge Issues, filed on June 1, 1993, by Community.

IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION



Arthur I. Steinberg
Administrative Law Judge